

Construction Management Agreement for 901 Monroe Street (ZC No. 10-28)

901 Monroe Street, LLC (the "Applicant"), based on discussions and meetings with the "200-Footers Group", agrees to the following Construction Management Agreement ("CMA") provisions in order to minimize or ameliorate the impact from the 901 Monroe Street construction on adjacent residents who reside within 200 feet of the Applicant's project located on Lots 3, 4, 11, 22 and 820 in Square 3829 (the "901 Monroe Street Property"). The Applicant will request that the Zoning Commission include compliance with these provisions as a condition of approval in Zoning Commission Case No. 10-28.

1. **Alley Construction Logistics:** There will no use by any construction vehicle or construction affiliate of the north-south public alley behind the six abutting 10th Street row-houses. This alley is the only ingress and egress route for the car driveways of these residents and their porches, living rooms, and bedrooms face this 10-foot alley and are the sole means of their essential air and light on that side. The Applicant will not block or obstruct in any way owner ingress and egress to this public alley. This alley will remain open during the project's general construction. However, it will be briefly closed in order to undertake the re-grading (which will result in the slope of the alley being re-graded away from the six rowhouses on 10th Street in Square 3829), repaving, and utility relocation work proposed by the Applicant. This alley shall never be used for staging. For purposes of this CMA, staging is defined as "use of any portion of said public alley for construction-related purposes, such as a construction trailer, construction equipment, a materials trailer, building materials and other related uses for ingress and egress by the Applicant."
2. **Traffic and Construction Control Plan:** All ingress and egress for the site will be from Monroe Street or up to the proposed East-West alley between 9th and 10th Streets at the northern end of the site, subject to DDOT approval. Vehicular ingress and egress will be only through approved, permitted construction entrances. At no time are trucks permitted to queue (which is deemed to be waiting for more than 15 minutes) or idle in residential areas along 9th, 10th and Lawrence Streets. Nor are workers allowed to individually congregate, queue or idle in the residential areas before the 7 a.m. or 8 a.m. start of the construction day. There will be a single, regulated construction entrance for workers on foot, especially after the building superstructure is up. Flagmen will be positioned on 9th and 10th Streets, as necessary, to direct the flow of construction traffic and to maintain the public's safety in this residential area.
 - Throughout construction, the Applicant agrees to ensure safe pedestrian access around the perimeter of the site. The Applicant agrees to develop and implement (after approval by DDOT) a plan for temporary pedestrian and vehicular circulation during construction. At a minimum, the plan shall identify temporary sidewalks, interim lighting, fencing around the site, construction vehicle routes, and any other features necessary to ensure safe pedestrian and vehicular travel around the site during construction.

- The Applicant agrees to notify all adjacent property owners as well as all property owners facing the property across perimeter streets in writing or, if mutually agreeable, by e-mail, at least seven (7) calendar days in advance of any street closure of more than one hour duration on any street, “emergencies” excepted, with “emergencies” as jointly defined by the Applicant and the 200-Footers Group.
3. **Construction Truck Route:** Construction truck traffic to and from the site will travel only on the following surrounding streets: North Capitol Street, Michigan Avenue, Monroe Street, Rhode Island Avenue, and 12th Street. The Applicant will not use 9th, 10th, Lawrence, or Kearney Streets as construction truck or construction-related truck thoroughfares. There shall be no construction use of parking spaces along 9th, 10th, Lawrence, and Kearney Streets, except for the spaces on 9th Street and 10th Street that are located to the north of the proposed east-west covered loading dock/alley.
 4. **Construction Parking:** Parking for construction workers will be provided within the fenced boundaries of the construction site or in the parking lot located in the Lawrence Street right-of-way, west of 9th Street, which is currently used as a parking lot for the Col. Brooks restaurant. Construction personnel will be encouraged to utilize mass transit, including Metro rail and Metro bus. Parking by construction personnel in the residential areas of 9th, 10th, Lawrence, and Kearney Streets will not be permitted. Alternatively, construction personnel can utilize short-term parking in the Brookland-CUA Metro parking lot or park elsewhere off-site and be shuttled to the site.
 5. **Site Management:**
 - **Fence:** Once construction commences, an eight foot (8’) high construction fence with privacy fabric will be erected to screen construction activities and debris from the nearby affected properties. All construction trailers, all construction materials and all equipment, and portable toilets will be located and always retained on the Applicant’s property behind the construction fence for the duration of the construction. The 8’ fence will shield the trailers and portable toilets from the neighborhood and residential areas.
 - **Odors:** There will be no noxious odors emanating from the construction site.
 - **Lighting:** Ongoing temporary on-site lighting during construction will be erected for the site to provide lighting for safety and security. No generators will be used at night to provide temporary site lighting. The Applicant will keep the lighting directed into the site only and not impact the surrounding community. In addition, the Applicant will maintain current lighting in the North-South alley at all times, subject to temporary construction needs
 - **Electrical Generators:** All electrical generators and compressors will be turned off at the end of each day’s construction activities, i.e., by 7 p.m.

- **Stormwater Management:** The Applicant will maintain temporary stormwater management systems throughout the Project's construction until such time as the permanent facilities are constructed, approved and functioning such that there shall be no adverse water impacts on the adjacent neighborhood.
 - **No Disruption of Services to Property Owners in Square 3829:** The Applicant will work with all relevant utilities, Verizon, and Comcast to assure that construction activity on the 901 Monroe Street Property will not result in the disruption of utility, cable or phone services to other property owners within Square 3829.
6. **Hazardous Waste, Hazardous Materials and Pollutants:** The Applicant shall not use, generate, manufacture, store, transport or dispose of, on or over the construction area any flammable liquids, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or any other "hazardous materials" as defined under Federal or DC law. However, materials that are commonly used in the construction of mixed-use projects such as the project proposed by the Applicant are not subject to this provision #6. The Applicant does not anticipate that any blasting will be required, however, should blasting be required the Applicant shall notify the Neighborhood Contact Person (discussed in provision #10) at least 48 hours prior to any blasting. The Applicant shall also give 48 hours notice to the Neighborhood Contact Person prior to any Foundation Pile work described in provision #14).
 7. **Excavation and Rodent Infestation:** Currently there are no conspicuous rodent holes and rodent sightings on 9th, 10th, Lawrence, and Kearney Streets. The Applicant will enact a substantive rodent abatement/rodent control program during pre-construction and while construction activity is occurring on the 901 Monroe Street Property. Rodents are deemed to include rats, possums, raccoons, snakes, etc. Upon receipt of any rodent complaint, rodent damage and/or rodent issues from 200 Footers up until completion of project, the Applicant will immediately resolve and provide fair market compensation for any problems and inconvenience resulting from rodent infestation.
 8. **Cleanliness:** The Applicant will require the continuous removal of rubbish and construction debris during the normal construction day and during any other periods of work. During construction activities, there will be a dumpster on-site (*i.e.*, inside of the fence) for the removal of trash and construction debris. The dumpster will remain covered at all times and will never overflow onto the ground. The removal and replacement of the dumpster will take place during normal working hours on Monday through Saturday. The Applicant will undertake a program of pest control to ensure that no increase in pest activity occurs during the construction period (see provision #7). All excavation or back-fill trucks will be covered before proceeding from the Applicant's property onto city streets.
 - The areas adjacent to the site will be policed daily by the contractor and will always remain clean of any trash or debris resulting from construction activities.

The Applicant will ensure regular cleaning of the north-south alley and all surrounding streets (*i.e.*, 9th, 10th, and Lawrence).

- At the end of each work day during construction, the Applicant agrees to ensure that any streets used for hauling construction materials and the entrance to the construction site are free of mud, dirt, trash, dust and debris and that all streets adjacent to the construction site are free of trash and debris.
- The Applicant agrees to maintain street surfaces adjacent to the site in a clean, smooth condition devoid of potholes at all times during the construction period.

9. **Work Hours and Workers:** The normal construction work-week will be Monday through Friday, 7 a.m. to 7 p.m., and Saturday, 8 a.m. to 4 p.m. The Applicant will make good faith efforts to limit the work that could disturb the residents of the neighborhood to weekdays, except where limitations on work during the week require work on Saturdays to meet the requirements of construction teams for a 40 hour work week. No Sunday work hours will be utilized.

- **Trucks:** All trucks for delivery of materials, construction or otherwise, will arrive, depart and operate on the Applicant's property during the foregoing hours. There will be no queuing (which is deemed to be waiting for more than 15 minutes), idling, standing, or parking of delivery trucks on 9th, 10th (except up to the proposed east-west covered loading dock/ alley, as approved by DDOT) Lawrence, or Kearney Streets (*i.e.*, only on Monroe Street if permitted).
- **Workers:** Workers will not be on Applicant's property prior to stated work hours. Workers will not congregate, loiter, talk loud or play loud music on 9th, 10th, Lawrence, and Kearney Street. Workers will remain on Monroe Street.
- **Noise (also see provision #15):** There will be no noise generating activities prior to the start of the work day. There will be no start-up or idling of equipment prior to the start of the work day. Indoor construction activity, defined as activity occurring entirely within a structure fully enclosed on all sides by insulated exterior walls, windows and or doors shall end at midnight each day, and any such activity that occurs after 7:00 p.m. shall not annoy or disturb reasonable persons of normal sensitivities. The Applicant agrees to place a minimum of one (1) sign per street-front around the perimeter indicating the permissible hours of construction, to place additional signage within construction field offices, and to provide a written copy of the permissible hours and rules of construction to all subcontractors prior to the start of their work.

10. **Communication:** The Applicant shall designate a representative (the "Representative") to be the key contact for interaction with members of the community (especially the 200 Footers) regarding construction. The Representative will have a local office, cell, fax and voice mail and be accessible during all business hours. The Representative will respond to all community queries within the same business day (Monday-Saturday). In addition,

the Applicant will provide an emergency point of contact who can be reached 24 hours a day for construction concerns. The name of the key contact and his or her telephone numbers will be conspicuously posted on the Applicant's property at all times. The Applicant will work with residents of 10th Street, NE whose homes are adjacent to the development site, residents of 9th Street, NE whose homes are directly across the street from the 901 Monroe Street Property, and residents of the 900 block of Lawrence Street, NE, to designate a single contact person ("**Neighborhood Contact Person**"), who may change from time to time, to represent the surrounding community. The initial Neighborhood Contact Person shall be designated by the community and will be determined prior to the start of construction activity on the Property. The Neighborhood Contact Person will receive and disseminate information from the Applicant to the community. The Applicant shall provide to the Neighborhood Contact Person, and keep updated, the names of and pertinent information about the Representative, the designee and emergency contact, including their home phone numbers and beeper numbers, as appropriate. In the event that a single Neighborhood Contact Person cannot be agreed upon, the Applicant shall provide the information described in this Plan to the ANC 5B Single-Member District Commissioner for the Property.

- The Applicant's designed Representative shall: (a) receive notice of violations of the Construction Management Plan/Agreement; (b) respond to the person who reported the violation within the same business day (Monday-Saturday); (c) act to remedy the violation as soon as possible; (d) correspond with the Neighborhood Contact Person to explain the complaint, proposed remedy, and timeframe for resolution of the problem; and (e) maintain a log of all complaints received and the steps taken to address the complaints (this log shall be continually available for inspection by the 200 Footers).
- Before commencing any clearing, grading, or demolition activities, the Applicant shall hold a meeting with the 200 Footers to review the construction hauling route, location of construction worker parking, plan for temporary pedestrian and vehicular circulation, and hours and overall schedule for construction. The Applicant further agrees to meet with the 200 Footers should the exigencies of construction require modifications to any details specified herein. In addition, the Applicant shall meet with the 200 Footers periodically during the construction activities and shall meet with the 200 Footers, at a minimum, once every three (3) months in order to address issues such as proposed landscaping (including a review of the proposed landscaping plans), alley repaving, sidewalk and retaining wall repair and replacement and stormwater management issues.
- Copies of the plan and maps shall be posted on the construction site and provided to each subcontractor before its work commences.

11. Contractors: The Applicant will enforce contractor compliance with all rules and regulations described herein with all such conditions included in all general and subcontractor oral and written contracts. The Applicant will require that all contractors and

subcontractors use only licensed vehicles and that they comply with all DC traffic laws and regulations.

12. Pre-Construction Survey of Adjacent Structures and Responsibility for Damage to

Adjacent Properties: The Applicant will hire an independent testing and inspection firm to conduct a thorough pre-construction survey of adjacent properties to the 901 Monroe Street Property in order to document the pre-construction condition of existing structures. The following properties will be surveyed: the rowhouses on the west side of 9th Street in Square 3829W, the six rowhouses on the west side of 10th Street in Square 3829, the properties in the 900 block of Lawrence Street (907-919 Lawrence Street) on the south side of Lawrence Street in Square 3830, and 1000 Monroe Street in Square 3881. These properties are hereinafter referred to as the "Surveyed Properties". Prior to beginning the pre-construction survey, the name and firm's biographical information will be provided to the owners of the Surveyed Properties. This survey will include not only photographs but also videos. A copy of this report will be provided to each owner of an adjacent property. If damage occurs from the construction activity on the 901 Monroe Street Property the Applicant agrees to repair, at its own expense and as promptly as reasonably possible, any damage to the Surveyed Properties and any improvements thereon (returning the improvements on the Surveyed Property to its pre-construction condition) which are caused by and result from the construction activity on the 901 Monroe Street Property. Any damage to adjacent properties valued at less than \$5,000 will be promptly paid (within three business days (Monday-Saturday)) to the damaged property owner by the Applicant.

Should the Applicant become aware of any cracks that develop in improvements on the Surveyed Properties during construction, a program of crack monitoring administered by a qualified independent company shall be put in place immediately.

13. Monitoring Activities: The Applicant will monitor construction dewatering during excavation of the below-grade levels and the installation of building foundations and below-grade walls. The Applicant will monitor vibrations during installation of the excavation support system to confirm that potentially damaging vibrations do not extend into the adjacent residences, especially the six 10th Street row-houses abutting the site. Seismographs will be placed in accordance with the final support of excavation design and an additional set will be placed at the 200-foot limit.

14. Foundation Piles: All piles will be installed per the support of excavation design. Piles will be primarily drilled rather than hammered or vibrated during the construction process.

15. Noise (see also provision #9). The Applicant will not permit any activity on the Applicant's property which generates sound levels in excess of sixty decibels (60 db.) or otherwise is likely to significantly disturb the adjacent residents prior to 7:00 a.m. on weekdays and prior to 8:00 a.m. on Saturdays or after 7:00 p.m. on weekdays and 4:00 p.m. on Saturdays. Additionally, all electrical generators and compressors will not be turned on before 7:00 a.m. on weekdays and 8:00 a.m. on Saturdays and will be turned

off by 7 p.m. All exterior work and interior work at any hour shall not exceed eighty decibels (80 db.). At all; times, workers will be prohibited from talking loud or playing loud music on 9th, 10th, Lawrence, and Kearney Streets.

16. Permits. All plans and permits will be on-site as required under the DC Construction Code and available for inspection by the community.
17. Tree Protection and Replacement. The Applicant agrees to implement a tree protection plan which will designate any trees proposed to be saved by the Applicant. These trees may be located on the 901 Monroe Street Property or abutting properties in Square 3829. The tree protection plan shall be prepared by a certified arborist or a horticultural professional with demonstrated expertise in tree protection techniques on urban sites and shall be submitted and approved by DDOT prior to the issuance of a clearing, grading or demolition permit.
18. Crane Swing Agreements. The Applicant shall enter into agreements with each property owner should there be crane swings above its adjacent property.
19. Maintenance Prior to Construction. The Applicant agrees to maintain the site in a clean, safe and well-maintained condition prior to the issuance of a clearing, grading or demolition permit.
20. Post-Completion Cleanup. The Applicant will work with the 200-Footers Group to determine the terms later.